



Serial No.: 09/386,641
Group Art Unit: 3623

AF/3623
Ifw

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE HONORABLE BOARD OF PATENT APPEALS**

In re the application of:)
Ben BALDWIN et al.) Group Art Unit: 3623
Application No: 09/386,641) Examiner: Romain Jeanty
Filed: August 31, 1999) Attorney Docket: SAB-017
For: JOB MATCHING SYSTEM AND METHOD)

I hereby certify that this correspondence is being deposited on this day with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450.

David P. Gordon 3-6-06
David P. Gordon Date

APPELLANT'S REPLY BRIEF UNDER 37 C.F.R. 1.192

The Assistant Commissioner of Patents
Washington, D.C. 22313
U.S.A.

Dear Sir or Madam:

The following is the Appellant's Brief, submitted in triplicate and under the provisions of 37 C.F.R. 1.192.

This Reply Brief is responsive to the Examiner's Answer, mailed January 4, 2006 (hereinafter "Examiner's Answer"). However, in this Reply Brief the Applicant does not intend to address all of the claims pending in the application nor all of the issues raised by the Examiner in the Examiner's Answer. The Applicant reasserts all submissions made in the Appeal Brief. Arguments presented in this Reply Brief are presented to further clarify the Applicant's position and are in no way intended to detract from arguments previously made by the Applicant.

As previously set out in the Appellant's Brief, the Examiner has rejected pending claims 1-21 under 35 USC 103, as obvious primarily in view of U.S. Patent No. 5,978,768 to McGovern ("McGovern") and the article "Employee selection makes Ritz tradition" ("Wagner").

Claims 1-21 claim methods and devices to provide a new way of allowing prospective job seekers (candidates) to locate possible employment positions from multiple employers - by matching employee personality profiles to employment position profiles of available jobs that are actually available. A list identifying matches is provided to a candidate. Conveniently, this allows the claimed method to be used as an innovative employment search tool, to be used by candidates that are yet unknown to employers offering employment positions.

The references applied by the Examiner merely disclose a computerized system for seeking available employment positions based on employee preferences (McGovern), on the one hand, and a company internal methodology of assessing the personalities of possible employees to most effectively place them within an organization (Wagner), on the other.

Neither the references, nor the Examiner, have provided a credible motivation for combining McGovern and Wagner to arrive at the claimed invention. Instead, a combination of the references to arrive at the claimed invention would require a new and inventive job matching technique only proposed by the applicants of the present invention.

Specifically, as detailed in the application, and the Applicant's Brief, prospective employees conventionally seek available jobs based on qualifications. McGovern discloses an example of this – prospective employees submit resumes, for consideration by employers whose positions are advertised. Applicants are screened based on the resumes.

As claimed in the present application, prospective employees are provided with lists of available jobs, not based on the employees' abilities, but based on their personalities. This, it is submitted, is a fundamental departure from the traditional qualification based screening methods. Specifically, employment data is searched: personality traits of prospective employees are compared to personality profile for available jobs from multiple employers; and a list of matched, available jobs is provided to the potential employees. This allows prospective employees to search available positions of multiple employers as highlighted in the Appellant's various responses and Brief. Moreover, it provides prospective employers assurances that those employment positions for which defined personality traits are required match the personality traits of the candidate, ensuring that employers do not unnecessarily review resumés, interview or otherwise screen employees having personalities unsuitable for the positions. This technique of matching candidates to available jobs to multiple employers thus allows for a more streamlined and efficient job matching method.

Wagner, on the other hand, discloses a method of matching employee personality profiles to available positions in a single organization, after the prospective employee has been made aware of the organization's employment opportunities; after the employee has already applied; after the employee has already been screened; and as a result of meeting with three levels of management (see Wagner - para 11). As multiple levels of screening are required, this technique is anything but efficient. Instead, it appears to be aimed at efficiently allocating resources (i.e. applicants) to jobs of a single employer. As Wagner notes, the technique has been used to place 4000 job applicants in 300 jobs (Wagner - para. 10). By contrast, if the claimed method were used, far fewer than 4000 applicants would likely have applied, as personality suitable employment positions would have been identified to job applicants, immediately, using the computerized method, thus discouraging or preventing employees having unsuitable personalities from applying.

The only suggestion of matching employee personality traits to positions of multiple employers, and presenting a list of matched positions, is contained in the present application. Any suggestion that a person of ordinary skill would combine McGovern and Wagner to arrive at the invention of any of claims 1-21 is arrived at with impermissible hindsight. Withdrawal of the rejection is therefore requested.

Claims 22-27 similarly stand rejected in view of U.S. Patent No. 6,385,620 to Kurzius in view of Wagner or Jane. Kurzius merely discloses a computerized candidate recruiting system, reliant on candidate qualifications. Jane merely evidences that personality profiling is known. Wagner is discussed above.

Fundamentally, neither Kurzius, Wagner, Jane or any other applied reference suggests a departure from the traditional qualification based screening method, to redefine how available jobs from multiple employers are searched, and employment prospects are matched thereto, as claimed.

For all of these reasons, and those contained in the Appellant's Brief, it is submitted that the Examiner has failed to establish a prima facie case of obviousness. Reversal of the Examiner's rejections under 35 USC 103 is therefore respectfully requested.

Respectfully submitted,

By David P. Gordon
David P. Gordon
Registration No. 29,996

Gordon & Jacobson, P.C.
60 Long Ridge Road
Suite 407
Stamford, CT
60902